



1 when Plaintiff served Defendant with a Notice to Quit, possession of  
2 the premises, a temporary writ of restitution, fees and costs.

3 Defendant filed an opposition (#8) on October 13, 2011, stating  
4 that Defendant filed a complaint in federal court for wrongful  
5 foreclosure and fraud (2:11-cv-01190)<sup>1</sup>. Defendant argues that  
6 because he is seeking to set aside a foreclosure sale for property  
7 purchased for more than \$600,000.00, the amount in controversy  
8 requirement is met. However, Plaintiff's complaint seeks only  
9 restitution for rent and possession of the premises. Because  
10 Plaintiff's complaint seeks damages that do not exceed \$75,000.00,  
11 the action must be remanded.

12 Furthermore, the notice of removal was defective for an  
13 additional reason. Defendant is a citizen of Nevada, and 28 U.S.C.  
14 § 1441(b)(2) provides that a citizen of the state in which the  
15 action is brought may not remove the action to federal court. See  
16 also Spencer v. U.S. Dist. Court for the N. Dist. of Cal., 393 F.3d  
17 867, 870 (9th Cir. 2004).

18 **IT IS, THEREFORE, HEREBY ORDERED** that Plaintiff's Motion to  
19 Remand (#6) is **GRANTED**. The action is **REMANDED** to the Justice  
20 Court, Las Vegas Township, Clark County, Nevada.

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22 DATED: April 12, 2012.

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UNITED STATES DISTRICT JUDGE

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27 <sup>1</sup> Defendant's action for wrongful foreclosure was dismissed with  
28 prejudice for failure to state a claim under Rule 12(b)(6) on March  
29, 2012.

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